



END OF SESSION — SF 445 — LAW ENFORCEMENT PRIVILEGE

Description: [Senate File 445](#) establishes law enforcement officer privilege and the confidentiality of certain law enforcement officer personnel records. It states that a law enforcement officer is not required to disclose certain information in criminal proceedings, including personal identifying information about themselves or immediate family members.

This Bill also modifies criminal penalties for cocaine possession and attempted murder, modifies minimum mandatory sentences for drug offenses, and provides for reconsideration of a felony sentence. The Bill repeals Iowa Code section [152C.6](#), which states that no local government entity can enact or enforce restrictions or requirements regarding massage therapists, including but not limited to zoning, building code, health, and sanitation regulations.

- **Cocaine Penalties** – Current law contains disparities in the penalties for crack cocaine compared to powder cocaine. This Bill changes the penalties for crack cocaine to lessen that disparity. The Bill also removes the mandatory minimum sentence for a Class C felony of cocaine possession and the limitations to release on parole, work release, and earned time.
- **Drug Minimum Mandatory Sentences** – Under current law, a person serving a Class C felony sentence under Iowa Code section [124.401\(1\)\(c\)](#) (small quantity drug manufacturing, delivery, or possession with intent to manufacture or deliver) is required to serve a minimum sentence as provided in Iowa Code section [124.413](#). This Bill removes that restriction, and all offenders serving a Class C felony sentence under Iowa Code section 124.401(1)(c) will not be required to serve a minimum sentence. This would apply retroactively to certain current offenders serving a Class C felony drug offense and make them eligible for consideration of parole.
- **Attempted Murder** – This Bill establishes that an offender attempting to commit murder against a peace officer, knowing that the person is a peace officer while that officer is acting within the officer's official capacity, will serve 100.0% of the prison sentence imposed and will be denied parole, work release, or any other early release. Attempted murder is a Class B felony, punishable by confinement for no more than 25 years. Current law requires a 70.0% mandatory sentence for an offender convicted of attempted murder. This Bill also prohibits an offender convicted of attempted murder against a peace officer from accumulating earned time by establishing a category C sentence. Any inmate serving a category C sentence and another category sentence cannot accrue earned time until the full category C sentence has been served.
- **Reconsideration of a Felon's Sentence** – Current law states that within one year from when an offender is convicted of a felony, other than a Class A felony or a felony requiring a minimum mandatory sentence, the offender may be resentenced by the court. This Bill would make that reconsideration of a felon's sentence possible for an offender serving a minimum mandatory sentence, but not an offender serving a sentence for a Class A felony or a Class B felony.

Correctional Impact:

- **Cocaine Penalties** – During FY 2015 and 2016, there were seven new prison admissions (all for crack cocaine) under Class B felony cocaine convictions. Three of the admissions were for 50-year super Class B felonies, and four were for 25-year Class B felonies. This Bill would have affected five of those new admissions, with three super Class B felonies reduced to regular Class B felonies, and two 25-year Class B felonies reduced to Class C felonies. Under this Bill, it is estimated that annually, one super Class B felony 50-year prison sentence would become a regular Class B felony 25-year prison sentence instead. It is also estimated that annually, two regular Class B felony 25-year prison sentences would become Class C felony 10-year prison sentences instead.
- **Drug Mandatory Minimum Sentences** – This Bill eliminates a drug mandatory minimum sentence in relation to Class C felony drug offenses except for offenders also convicted of forcible felonies. It is estimated that 291 drug offenders admitted to prison annually would not receive mandatory minimum

sentences under this Bill. Currently, there are 191 offenders serving Class C felony drug sentences. It is estimated that 178 of these will become eligible for consideration of parole under this Bill.

- **Attempted Murder of a Peace Officer** – There would be no significant correctional impact for a conviction of attempted murder of a peace officer while that officer is performing duties and knowing that person is a peace officer. This is a very rare occurrence, and the difference in additional time served under this Bill would be seven and one-half years.
- **Reconsideration of a Felon's Sentence** – The correctional impact for reconsideration of a felon's sentence cannot be estimated. It is unknown how frequently judges will exercise this option. It is possible that reconsiderations could lead to a shorter average length of stay (LOS) for some convicted individuals.

Minority Impact: The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African American.

- **Cocaine** – The provisions dealing with cocaine felony sentencing in this Bill would have a positive minority impact to the African-American community. During FY 2015 and 2016, there were seven new prison admissions under Class B felony cocaine. All were for crack cocaine, and all offenders were African American.
- **Drug Mandatory Minimum Sentences** – The provisions dealing with drug mandatory minimum sentencing in this Bill would have a positive minority impact to the African-American community. During FY 2016, 15.8% of new prison admissions under Class C felony drug convictions were African American.
- **Attempted Murder of a Peace Officer** – There would be no minority impact for a conviction of attempted murder of a peace officer while performing duties. This is a very rare occurrence.
- **Reconsideration of a Felon's Sentence** – It is not possible to estimate a minority impact for reconsideration of a felon's sentence. It is possible that reconsiderations could lead to a shorter average LOS for some convicted individuals. This could lead to a positive minority impact, as 26.1% of the prison population serving felony convictions is African American; however, it cannot be estimated how the courts would utilize reconsideration of a felon's sentence.

Fiscal Impact: There would be no minimal cost to comply with the law enforcement officer privilege and confidentiality requirements in this Bill. The overall fiscal impact of the other provisions in this Bill would not be experienced by the Department of Corrections (DOC) until several years after enactment, as the majority of the provisions entail changes in the LOS of convicted individuals. There would be some cost savings experienced by the DOC starting in FY 2018 due to the release on parole of eligible offenders currently serving Class C felony mandatory minimum sentences.

- **Cocaine** – The provisions dealing with cocaine felony sentencing in this Bill would result in an estimated annual savings of up to \$30,000 after the first year of implementation in FY 2019, with an estimated two fewer Class B felony convictions (becoming Class C felony convictions) annually.
- **Drug Mandatory Minimum Sentences** – The fiscal impact of decreasing the number of offenders serving mandatory minimum sentences for drug convictions is estimated at a net cost savings of \$140,000 for FY 2018, and \$120,000 for FY 2019. This estimate takes into account the marginal cost differential of prison versus parole time, the LOS for parole, and the need for additional probation/parole officers.
- **Attempted Murder of a Peace Officer** – The fiscal impact of a conviction of attempted murder of a peace officer while performing duties, and knowing that person is a peace officer, would be minimal. For any future convictions, it is estimated that the offender would serve a full 25-year prison sentence rather than the average 17.5 years under current law.
- **Reconsideration of a Felon's Sentence** – It is not possible to estimate a fiscal impact for reconsideration of a felon's sentence. It is possible that reconsiderations could lead to a shorter average LOS for some convicted individuals.

Enactment: The Bill was approved by the General Assembly on April 19, 2017, and is currently awaiting approval in the Governor's office. If enacted, the legislation takes effect on July 1, 2017.

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